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OFFICER**

Joseph G. Nucci, RA



The City of Tempe is a
Certified Local Government,
in association with the United
States Department of the
Interior/National Park Service



Tempe Historic
Preservation Office
Development Services
Department
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• • •

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Tempe Historic Preservation Commission (Tempe HPC)

Transmittal Letter

To: Planning & Zoning Commission

Through: Fred Brittingham, Deputy DSD Manager-Planning

Date: Tuesday, September 30, 2003

RE: Revisions regarding Tempe Historic Preservation proposed for the City of
Tempe Zoning and Development Code Preliminary Draft June 2003

This transmits proposed revisions regarding historic preservation to the City of Tempe Zoning and Development Code Preliminary Draft document dated June 2003 for your consideration. Revisions of this type are necessary to provide accurate information to property owners regarding historic property designation as a form of overlay zoning within the Zoning and Development Code.

Historic (H) overlay zoning is applied to parcels of property which have been officially designated as Tempe Historic Properties and listed on the Tempe Historic Property Register. This designation may apply to individual parcels or to districts (consisting of at least four contiguous parcels). The process for designation is described in Chapter 14-A "Historic Preservation" of the Tempe City Code. Designation (application of H overlay zoning) requires that all applications for new construction, alterations or demolition be first routed to the Tempe Historic Preservation Officer for assessment and, in cases other than minor alterations, approval by the Tempe Historic Preservation Commission, prior to further processing.

The Tempe Historic Preservation Ordinance authorizes the Tempe HPC to recommend to the city council and other applicable boards and commissions, changes in the zoning ordinance, building code, general plan or other local laws as may enhance the purposes of historic preservation. Accordingly, and as Historic designation subjects properties to processing by the Historic Preservation Officer or Commission, we urge the Planning & Zoning Commission, Staff, and the Consultant to consider incorporating references to TCC §14A at appropriate locations in the Zoning and Development Code.

In preparing the attached recommendations the Tempe HPC has tried to keep references both minimal and succinct. Our purpose is to call attention to the existence of requirements specified at TCC §14A in the interest of providing more complete information without miring the Code in details. We hope you can concur that this will result in a document that is more accurate and convenient to use as it provides a more comprehensive disclosure of the regulatory development context.

Sincerely,

Bob Gasser, Chair
Tempe Historic Preservation Commission

C

Revisions regarding Tempe Historic Preservation proposed for
City of Tempe Zoning and Development Code Preliminary Draft June 2003

1) [ref page 1-2] Section 1-103 - subsection E

Part 5 – Overlay Districts. Part 5 contains the city's overlay zoning districts. Overlay zones in Tempe include the following: Rio Salado Overlay District, Southwest Tempe Overlay District, ~~and~~ Light Industrial Overlay District, *and Designated Historic Properties and Districts.*

2) [ref page 1-16] Section 1-309

Section 1-309 Historic Preservation Commission

A. Created and Purpose. *The Tempe Historic Preservation Commission is created by Tempe City Code to act in an advisory capacity to the city council in all matters concerning historic preservation. The commission shall make recommendations to the planning and zoning commission regarding designation of landmarks, historic properties and historic districts. The mission of the Tempe Historic Preservation Commission is to provide protection for significant properties and archeological sites which represent important aspects of Tempe's heritage; to enhance the character of the community by taking such properties and sites into account during development, and to assist owners in the preservation and restoration of their properties.*

City code reference – See TCC §14A, establishing Historic Preservation Commission, setting officers, meetings, powers and duties.

B. Historic Preservation Commission – Duties and Powers. *For the purpose of this code the HPC shall have the powers to:*

- 1. Review applications for the designation of landmarks, historic properties and historic districts and make recommendations to the planning and zoning commission, such review shall be based on the criteria as specified in § 14A-4 of this chapter;*
- 2. Review and make decisions on applications for proposed alterations, new construction, demolition or removal affecting landmarks, historic properties or properties located within an historic district; such review shall be based on the criteria as specified in § 14A-6 of this chapter;*

C. Historic Preservation Commission – Organization. *Refer to City Code Chapter 14A.*

D. Historic Preservation Commission – Appeals. *Actions of the historic preservation commission shall be subject to appeal to the city council as described in TCC §14A-8.*

3) [ref page 2-3] Section 2-105 Overlay Districts.

D. *Designated Historic Properties and Districts listed on the Tempe Historic Property Register.*

4) [ref page 3-30] Section 3-422 Historic Designation

Uses Permitted in Historic Districts – Not Restricted. *The designation of any property or district as historic shall not inhibit uses as permitted by the zoning ordinance, as adopted and amended by the city council.*

5) [ref page 4-3] **Section 4-103 Reference to Other Design Guidelines and Standards**

- C. **Historic District Design Guidelines.** *Designated Historic Districts listed on the Tempe Historic Property Register are authorized to adopt district-specific design guidelines in accordance with TCC §14A-3. Where specific guidelines have not been adopted for a district and for an individual property listed on the Tempe Historic Property Register, the Secretary of the interior's standards for the treatment of historic properties shall serve as guidelines for preservation, rehabilitation, restoration and reconstruction.*

6) [ref page 4-37] **Section 4-701 [Landscape & Walls] Purpose and Applicability**

- B. **Applicability.** All uses and developments shall conform to the standards of this chapter, except as provided for uses and developments in the RCC district, *designated Historic Districts*, and single family uses, as noted herein. Standards for landscape, walls, and screening in the RCC district shall be as established through the Design Review Board and City Council. *Standards for landscape, walls, and screening in designated Historic Districts shall be in accordance with district-specific design guidelines.* Written approval by the Development Services Department is required prior to installation of any landscaping, walls, fences or other improvements. Except as provided for under Section 4-102D (Bonding), all landscape and walls shall be installed prior to issuance of an occupancy permit. Any walls to be located within the public right-of-way shall require development plan approval and/or prior approval by the Public Works Department, and receive an encroachment permit.

7) [ref page 5-1] **Chapter 4 – Designated Historic Districts**

8) [ref page 5-9] **Chapter 4 – Designated Historic Districts**

Section 5-401 Purpose

- A. **Purpose.** *The intent of Historic District designation is to provide protection for significant properties and archeological sites that represent important aspects of Tempe's heritage. To enhance the character of the community by taking such properties and sites into account during development, and to assist owners in the preservation and restoration of their properties are also within the purpose of historic designation.*
- B. **Applicability.** *Historic district means a designation, in the form of overlay zoning, applied to all properties within an area with defined boundaries, as a result of formal adoption by the city council, which express a distinctive character worthy of preservation. An historic district may also include or be composed of one or more archeological sites. The boundaries of an historic district may include contributing and noncontributing properties.*
- 1) *Contributing property means a classification applied to an individual property within a designated historic district, signifying that the property contributes generally to the distinctive character of the district; or an archeological site.*
 - 2) *Noncontributing property means a classification applied to an individual property located within a designated historic district, signifying that the property does not contribute to the distinctive character of the district. Noncontributing properties are subject only to the provisions of this chapter regarding new construction, including*

general landscape character, and only when the amount of new construction equals or exceeds twenty-five percent (25%) of the land area or building ground floor area of the property at the time of its identification as noncontributing.

Section 5-402 General Regulations

- A. Land Use.** *The historic designation of any property or district shall not inhibit uses permitted by the zoning ordinance, as adopted and amended by the city council.*
- B Review Procedure and Criteria.** *Development proposals shall be evaluated by the Tempe Historic Preservation Commission in accordance with the criteria identified in TCC §14A.*
- C Boundaries.** *Boundaries of designated Historic Districts shall be as indicated on the Tempe Historic Property Register listing of designated properties and districts in the city.*

9) [ref page references] References

City of Tempe Historic Preservation Plan

City of Tempe Historic Preservation Ordinance – Tempe City Code Chapter 14A

Design Review Board Comments (Final Draft: 9-24-03)

Based on the DRB Pre Session Comments on 9-3-03 and 9-17-03.

Zoning and Development Code (Draft 6-03)

- 1-103, D.: Add "Design" as a standard.
- 1-307, B.: 1. Add "Public Facilities (excluding public schools), Residential Plats, Subdivisions, Development Agreement Projects".
2. Add the words "application including" after the word "development".
- Add "color, massing, textures, articulation, etc." as items being reviewed.
3. Delete the word "plan".
- Add "reviews design related variance cases prior to the Board of Adjustment's consideration."
- Add "continue cases".
- 1-307,C I appreciate the brevity but should some more language be added regarding the limitation of the Design Review Board's authority. What things can't we discuss?
4. Delete the word "plan".
- 3-403, B: 5. Change "1000" to "1320 excluding rights-of-way, easements and alleyways". Our city was designed on a 1320' grid so we should protect the pedestrian block.
- 3-408 Remove diagrams.
- Fig. 4-705 There is a great sketch showing how a street front should lay out, but no dimensions associated with it, and where is it in the code so we can hold new developers to a standard requiring a buffer between pedestrians and the street?
- 4-NEW Add: Exposed neon lighting shall not be used as building or architectural accents or features without Design Review Board Approval.
- 4-603,E Concern: Although I feel many Cities may be trending towards it, maximum parking restrictions are very dangerous. Many retail clients will stop developing in cities that have them. Has there been discussions with

Glendale regarding how max parking restrictions have limited development?

- 4-701, B Add wording requiring all development project submittals shall include a landscape plan prepared and stamped by a registered landscape architect.
- 4-702, B This is too restrictive. Consider replacing the word “shall” with “is encouraged”. Private property owners and landscape architects should have the flexibility to propose the materials they wish on their own property as long as the design meets our criteria and staff’s review. This type of restriction should only apply to rights-of-way and medians, etc.
- 4-702, F Add to the last sentence: “unless approved by the Development Services Manager or the Design Review Board. There are eucalyptus and willow varieties that are already being used successfully by the city.
- 4-704, C 4. Delete either the word “of” or “with” in the second line.
- Delete the requirement for 5 ground covers and create a coverage requirement.
- 4-706,C 2. Screen walls are becoming more and more prevalent throughout the City and seem to be required on every project. It would be appropriate that an elevation of the screen wall be required with the Design Review application along with the building elevations.
- 4-902,J (4-58): Multi-tenant development shouldn’t be listed unless it is strictly defined, and my comment would be – why does it need to be listed. Just reference a complex/center, and strike the multi-tenant development language. I would define a complex/center as:
- Three or more structures serving separate (or multiple) businesses and sharing an egress, or a single structure serving two or more businesses.*
- Regarding how many discussion we have as a Board regarding this code item, I feel this section is lacking. Neither “complex/center” or “multi-tenant development” are specifically defined in the Definitions section of the Code. I feel this leaves too much up to interpretation and should be spelled out better.
- 4-902, H Add restrictions on exposed neon.
- 4-902, W Reduce allowed coverage to 15%
- Add restrictions on neon signs.

States an individual sign application would go to the Board only on appeal, is this the current structure?

6-306, B Add wording requiring all development project submittals shall include a plans prepared and stamped by a registered architect and engineer.

6-307, B 1. Add the words “any size” after the words “all new development” to clarify.

6-307, D 1-c. Add the words “Colors and” at the beginning and the words “and design” after “quality”.

Add discussion that landscape should be cohesive, functional and compatible with its surroundings. It should relate to building forms, features, massing, uses and heights.

6-308, C 1. Add requirement for signage, walls and landscape to be reviewed by the Design Review Board.

General comments:

I like the new format, it takes a bit to understand the numbering system that perhaps could be simplified, but the inclusions of cross references is helpful.

Note: DRB additions and changes from the second study session are underlined.

GAMMAGE & BURNHAM

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Fred Brittingham, AICP
City of Tempe
31 East Fifth Street
Tempe, Arizona 85281

Re: New Tempe Zoning Ordinance and Fraternity Houses

Dear Fred:

As you know, our office represents the Alpha Drive Association comprised of nine fraternity houses located along Alpha Drive northwest of Rural and University. These houses were built and have been operated on property owned by Arizona State University. As such, the houses have not been subject to City of Tempe zoning. Starting earlier this year, pursuant to long standing contractual rights with Arizona State University (ASU), the houses have begun to transfer into private ownership.

Alpha Drive is currently zoned Industrial-2 (I-2) by the City of Tempe and is shown as Educational on the current Tempe General Plan. The proposed 2030 Tempe General Plan classifies Alpha Drive as Residential/Educational. Because the houses were legally constructed under the exemption from Tempe zoning afforded by ASU's ownership, as the houses transfer into private use they become legal non-conforming uses in the City of Tempe.

In conversations with you and other members of the Tempe Planning Staff we have all jointly acknowledged the conclusion that it is not desirable over the long term for the houses to exist in a non-conforming use status. Because of the significant regulatory complexities surrounding non-conforming uses, having the houses continue to exist in that status could be an impediment to their continuing maintenance, renovation and utilization. Given the General Plan designation as educational and the isolated location of these houses (there being no non-student residential area nearby), Alpha Drive is clearly an appropriate long-term location for student housing of this type.

In order to bring the Alpha Drive fraternity houses into a fully legal status with the City of Tempe, the first step is to be sure that text in the new zoning ordinance provides an appropriate mechanism for a zoning approval path. The second step is then to follow that path. This memo is to outline our suggested approach.

The current proposal inserts "fraternity houses" as uses which can be permitted in R-3 or R-4 zoning districts subject to a use permit. While that approach may be acceptable in certain locations around the City of Tempe, we believe that under most circumstances existing R-3 or R-4 zoning districts would not generally be appropriate for fraternity house uses. Further, the existing R-3 and R-4 densities are significantly lower than the densities at which the Alpha Drive fraternity houses are built.

This issue of density has some complexity. The Alpha Drive fraternity houses have "densities" in the 45 to 60 bedrooms per acre range. Individual bedrooms in a fraternity house are generally designed to hold two students and are much smaller and do not have the same attributes as an apartment or dwelling unit for other density calculations within the City. Based on an attempt to use individual bedrooms as an equivalent for dwelling units for purposes of calculating density in the R-3 and R-4 categories would not work well for Alpha Drive.

Additionally, we believe there are certain other attributes of the Alpha Drive area that make it somewhat different than an R-3 or R-4 multifamily situation. There are communal dining areas in the individual houses and there may ultimately be a larger communal dining facility serving several houses. There are also circumstances in which we could see a small resident-only convenience food type shop possibly being incorporated into Alpha Drive. While such might never come to pass, it is an example in the way in which overall Alpha Drive is different than a traditional multifamily neighborhood.

We suggest that a more appropriate way to deal with Alpha Drive would be for it to be rezoned to the MU-4 category. This category is essentially the replacement for the old MG district. It is appropriate in that it has no maximum density limitations. Rather, the overall density is regulated by site plans approved by the City and by parking requirements. The new ordinance proposes a fraternity house parking requirement of 1.5 parking spaces per bedroom. We believe Alpha Drive meets this overall parking requirement with its exclusive parking easement on immediately adjacent ASU property. MU-4 is thus a desirable district because of its flexibility in uses, density and development standards. This particularly appropriate here where there are existing buildings already in place that may or may not meet lot coverage and setback limitations imposed by other zoning districts.

Finally, we note that given Alpha Drive's isolated location away from any other residential neighborhoods and proximate to the ASU campus and downtown Tempe, the MU-4 zoning district is consistent with other residential approvals in the downtown area.

Thus, our first suggestion would be to amend the Permitted Land Use Table (Table 3-202B in the new zoning ordinance) in the Mixed Use District to allow fraternity and sorority houses in the MU-4 zoning district with a use permit. Following the adoption of the new ordinance, Alpha Drive should seek MU-4 zoning from the City. We do not believe that any particular amendment to the MU-4 zoning category is necessary to effect this result.

Second, we understand from our conversations with City staff that the staff would like to have some enforcement capability over the designation of any particular student group housing facility as being a "fraternity" or otherwise affiliated with some kind of affinity group. Thus the use permit process will give the City the power to use the use permit as a means of enforcement with regard to the relationship between an individual student housing unit and a particular affinity group. We accept and are supportive of this concept. We suggest, therefore, that the power to grant use permits for fraternities or other affinity groups be added to the MU-4 zoning category.

We hope that the staff is supportive of our proposal. We believe this is the simplest, cleanest and most effective way to bring Alpha Drive, now that it is in private ownership, into full compliance with Tempe's new Zoning and Development Code.

Please contact us with any questions you might have.

Very truly yours,

GAMMAGE & BURNHAM

By

Grady Gammage, Jr.

GG/klp

TEMPE APACHE BOULEVARD ASSOCIATION

ESTABLISHED 1992

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September 23, 2003

CITY OF TEMPE
DEVELOPMENT SERVICES DEPARTMENT
COMMUNITY DESIGN AND DEVELOPMENT
ATTENTION: FRED BRITTINGHAM
P.O. BOX 5002
51 E. 5TH ST.
TEMPE, AZ 85280

RE: City of Tempe Sign Ordinance

Dear Fred,

The City of Tempe, its residents and business owners have had a long and prosperous association with each other. We all benefit when we can cooperate and find mutual ways to improve our way of life here in Tempe.

The collection of sales taxes is one of the primary ways this prosperity is maintained. Sales tax is a good and fair way to support the services required by the public.

However, sales taxes can not be collected if residents choose to spend their dollars outside our city. Residents who drive past their local merchants and frequent non-Tempe merchants cut into our city's tax base. It hurts the city, it hurts the merchants, and it hurts the residents.

In an effort to improve sagging sales and the city's revenue, we recommend the City Council and the Staff of the Planning & Zoning Department consider a change in the City of Tempe's sign ordinance.

The changes we propose would not be a "wholesale revamping" of the city sign ordinance, but rather a small improvement that would increase public awareness of local merchants without sacrificing the aesthetic beauty of our community.

These minor changes might even increase public safety, for both motorists and pedestrians. Our suggestions include:

1. Allow merchants the ability to promote seasonal or weekly specials with banners, sandwich signs or window posters; NOT gaudy, outlandish signage, but aesthetically pleasing and well planned signs that might promote a grand opening or weekend special, etc.

2. Allow merchant signs to be placed where the motorist can see them well in advance of the driveway. The last second lane changes, abrupt stops and sudden turns can be avoided if merchant signage can be seen clearly by the motorist well in advance.
3. Move merchant signs above eye level. Require all signs to be high enough off the ground so a motorist can see underneath them. Motorists leaving a parking lot need to have an unobstructed view of crossing traffic and pedestrians on the sidewalk.
4. Allow signs to have variety and color. Drab, monochrome, block lettering will not increase our sales tax base. A variance shouldn't be required of a sign just because it has 3 colors.
5. Allow informational signs that tell the public who the merchants are and what services they offer.

A healthy sales tax revenue stream is needed today and will continue to be needed far into the future. Increased visibility of the signs of our merchants will help keep sales in Tempe. Poor signage will drive sales to neighboring communities.

If we don't take effective action now, the buying public will continue to make their purchases elsewhere. Sales tax revenues will continue to sag. City services will continue to be cut and the residents of Tempe will be the ones who suffer.

We would like to meet with you and other members of the city staff to discuss our ideas for improving the city's sign ordinance. Let's work together to make Tempe a "Business Friendly" City. Help us provide the revenue stream the residents of Tempe need to be prosperous.

Sincerely,
David Johnson, Vice President



Tempe Apache Boulevard Association.

cc: Neil G. Giuliano, Mayor
Barbara Carter, Vice Mayor
Ben Arredondo, Councilmember
Dennis Cahill, Councilmember
Len Copple, Councilmember
Pam Goronkin, Councilmember
Mark Mitchell, Councilmember
File

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Fred Brittingham, AICP
City of Tempe
31 East Fifth Street
Tempe, Arizona 85281

Re: City of Tempe Preliminary Draft Zoning and Development Code

Dear Fred:

As you know, I have served as a member of the Citizens Advisory Committee (CAC) in connection with the new zoning ordinance. I have not yet had time to go through all of the draft in detail. In general, I feel very positively about the progress Tempe has made in clarifying and simplifying its development procedures.

For some period of time, I have been very critical of the procedures followed by the City of Tempe. My concern is that the zoning ordinance itself is often so unclear that there is a sense when someone begins seeking a major development approval in Tempe that the process itself can be manipulated depending on whether City staff likes or dislikes the proposal. Tempe has one of the most complex, confusing and often contradictory processes of any city in which we routinely do business. The new draft goes a long way toward curing that problem.

I am writing now, however, to point out that the new draft continues and even exacerbates one of the aspects of Tempe's development approval process that I think is the most confusing and ill-advised. That process is allowing variances and use permits to go both to the Board of Adjustment and/or to the Planning Commission and City Council. I have spoken about this issue at a number of the CAC meetings and had hoped that the staff and consultants had understood and agreed with my points. In the June 2003 draft, however, this confusing, contradictory, and at least arguably partially illegal process is slated to continue. On top of that, the Redevelopment Review Commission (RRC) is similarly empowered to approve variances.

The issue presented is somewhat different with regard to use permits than with regard to variances. Accordingly, I would like to briefly highlight each of these concerns.

Use Permits.

Use permits or "conditional uses" are uses which are permitted by the zoning ordinance in certain zoning categories if a particular set of circumstances is present at a given location. The authority for use permits is derived from A.R.S. §9-462.01(C). I believe that this statute empowers cities in Arizona to handle use permits through either the Planning Commission and City Council route or the Board of Adjustment route. Because the statute does not specify that the approval of conditional uses must go through any particular procedural path, I believe local municipalities have an option. Many communities throughout the State treat use permits as essentially "legislative" decisions, allowing them ultimately to be made by a City Council. Other municipalities treat them as "quasi-judicial" decisions sending them to the Zoning Administrator and Board of Adjustment. Under my interpretation of the statute, either procedure is legal.

It is relatively unusual, however, for cities to allow use permits to be granted through both procedural paths. This is an unusual procedure because the quasi-judicial route handles decisions and hearings dramatically different from the legislative method. Allowing individuals to "forum" shop not simply between two different decision making bodies, but between two different modes of decision making seems fraught with potential risk.

Variances.

Variances, in my view, are a different matter. Variances are authorized by A.R.S. §9-462.06(G)(2). This is in the statute which creates and empowers municipalities to have Boards of Adjustment. Variances are unusual and disfavored creatures of Arizona law. They are intended to be infrequently used. Variances present circumstances in which the zoning ordinance prohibits some particular physical development, but in which because of special circumstances inherent in an individual property, we choose to allow violation of the ordinance. By their entire nature, variances are quasi-judicial decisions. They are particularized, individualized determinations as to a particular piece of property that some unusual set of special circumstances necessitates the granting of a variance in order to afford a property owner relief. This is the kind of quasi-judicial determination that is made in a court like setting where typically witnesses are sworn, testimony is taken, and a ruling is made based on explicit findings. As I read the statute it does not allow true variances to be granted by any body other than the Board of Adjustment.

It is possible to set up a system where through PAD-type ordinance and overlays the hard standards of setback, height, lot coverage and so on can be altered by approval of a specific plan relative to an individual piece of property. In a well drafted ordinance, however, such an approval does not involve variances. Rather it involves the approval of a specific development plan, which plan is allowed by the terms of the ordinance to alter hard objective standards of a zoning category.

For years, Tempe has operated a system in which variances are approved by both the City Council and the Board of Adjustment. This procedure is nearly unique in the State of Arizona. In the new draft, the Planning Commission and Redevelopment Review Commission are authorized to grant variances. In all the jurisdictions in which we practice, I am not aware of any other circumstances where Planning Commissions approve variances. I do not believe such a procedure would be either legal or prudent.

I am not urging that any existing procedures under the current ordinance be altered. Business as usual in Tempe should continue until the ordinance is amended. What I do urge, however, is that the new ordinance provide that:

1. Variances should be handled only by the Board of Adjustment. (This can include preliminary hearing at Zoning Administrator; appeal to Board of Adjustment; subsequent appeal to Superior Court.)
2. Use Permits should be either Board of Adjustment matters or Planning Commission/RRC matters, but not both.

It would be a shame to adopt an all new Zoning Ordinance without clearing up this significant lingering problem.

Very truly yours,

GAMMAGE & BURNHAM

By

Grady Gammage, Jr.

GG/klp

Fred Brittingham, AICP
September 17, 2003
Page 4

bcc: CCA
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Sept. 11, 2003

Mr. Fred Birmingham
City of Tempe
P.O. Box 5002
Tempe, AZ 85280

Dear Fred

This is a mailed, more formal copy, of much of what I have said previous via email. I believe the changes suggested herein need to be considered to avoid the possibility of future legal action someone may want to initiate. It won't be me because my tower is as high as its going to be at my age.

I believe Tables 3-102, 3-202A, 3-202B, 3-302A, should be changed from the current

"Amateur Radio Antennas

35 feet in height or less	P	P	P	P
Over 35 feet in height	U	U	U	U "

To read as follows:

"Amateur Radio Antennas

70 feet in height or less	P	P	P	P
Over 70 feet in height	U	U	U	U "

If 70 ft is just too hard for someone to digest I can see dropping it to 60 ft and avoiding legal challenges, at least for a while. I sincerely believe that there will be challenges, in light of PRB-1, if the 35ft limit is maintained. Anything lower that 50 is asking for litigation.

Comments:

In the appendix of definitions Amateur Radio needs to be defined: A Federally Licensed Radio Service.

One of about 20 state laws reads as follows: (and others will sooner or later exist)

"No zoning ordinance or by-law shall prohibit the construction or use of an antenna structure by a federally licensed Amateur Radio operator. Zoning ordinances and by-laws may reasonably regulate the location and height of such antenna structures for the purposes of health, safety, or

aesthetics; provided, however that such ordinances and by-laws reasonably allow for sufficient height of such antenna structures so as to effectively accommodate Amateur Radio communications by federally licensed Amateur Radio operators and constitute the minimum practicable regulation necessary to accomplish the legitimate purposes of the city or town enacting such ordinance or by-law."

Where lawsuits have been filed against restrictive ordinances the landmark Amateur Radio cases show 65 to 75 feet as being reasonable. This is bound to become a problem sooner or later if not recognized in the present re-write.

One of the key phrases in the above paragraph is —" reasonably allow for sufficient height to effectively accommodate Amateur Radio"—I don't think 35 ft would qualify.

It might be noted that cell phone antennas are an indication of necessary height for effective performance, and I know of few as low as 35 ft.

Towers are generally manufactured in 10 or 20foot sections. So the present 35foot limit poses a problem as it is. A 30ft tower would probably be what would have to be put up. This would hardly clear some houses. I think it should at least be a multiple of 10ft and at least 60 ft.

If someone wants a neighborhood free of antennas there are plenty of places with deed restrictions etc. where those restrictions prevail. Houses around me have changed hands in the last 40 years and no one has ever indicated my tower had any affect on property values.

I believe Mesa has a 70-ft fixed tower limitation. Maricopa County has a 100-foot limit. Gila County has a 70-ft limit.

One of the reasons for the height is to get above trees (Palm, Pine and others) and High Voltage power lines which negatively affects performance of antennas.

The additional height also should allay fears of any radiation exposure. Which is in most all cases negligible anyhow.

The additional height puts the antenna further away from situations where it may cause interference in home electronic devices. This is not the problem of the amateur in most cases, but that of the device manufacturer, according to the Federal Communications Commission.

Location restrictions, such as in the rear yard, guy anchors to be no further toward the front than the building setbacks are fine. Anti climb device requirements are perfectly acceptable.

I have no intention of trying to increase my antenna height which is about 45 ft total, and "grandfathered" so this whole discussion is not for any personal situation. I am getting too old for tower climbing.

Sincerely

A handwritten signature in cursive script that reads "Don Morton".

Don Morton

COMMENTS AND CONCERNS
FOR THE LAND USE & DEVELOPMENT CODE - DRAFT 3-31-2003

Several possible scenarios might well come together to create a great opportunity for abuse. Additionally, some of the sections will significantly affect our life style by commercializing areas that have traditionally been only residential.

The first possibility is the use of a staff person as a hearing officer who will now do the work presently done by citizens on the Board of Adjustment which now becomes a Board of Appeals. Section 1-303 page 7,8. Section 6-101A page 147. Section 6-307 page 162. Section 6-311 page 171.

Coupled with the above is the lack of proper notices.

Neighborhood Meetings: Section 6-402, page 173.

There is no requirement to maintain the posted sign on the property. 14 days is not sufficient notice to Neighborhood Chair to get a notice out through the neighborhood office. Section 6-402E, pg 174.

Public Meetings: Section 6-404 C:
Same shortcomings as above.

The developers use the argument that kids will tear down signs/notices, yet they seem to have no trouble maintaining "For Sale" signs and other signs. It is now common practice to remove signs from the lot proposed for change.

With the above coupling a poor person without the skills to personally argue an appeal or follow the procedures and unable to afford counsel will have no relief from abuse of the system.

Our anxiety comes not only from the code revisions but from its joining with the fast track Rio Salado Commission, section 1-306 page 12, and the City policy of using fast track DEVELOPER PLANNING, DESIGN, AND DEVELOPMENT.

We feel that there is too much room for abuse of the process when and if the people involved are too developer friendly coupled with the extended standards for height, density, coverage, etc. Chapter 2 Sections 4-201 thru 4-205 page 53 and the Pedestrian Overlay District, Section 5-108 pages 129 thru 132.

Page 2

Home Occupation: Section 3-408 Page 40.

"Small commercial ventures" are permitted and encouraged. May have 1 employee and unlimited family workers as well as unlimited employees not based at the home or brought in for meetings. Parking restrictions will be impossible to enforce.

Live Work: Section 3-409 Page 42.

Permitted in MU, CC, R/O, PCC-1, PCC-2, and all Multi Family districts.

Includes the above usages except may have 2 employees and unlimited family workers.

****May have a 16 Square Foot SIGN.**** Visualize Orchid House / Brickyard with signs outside every unit.

Is exempt from standards for vehicles.

Both Sections ignore and seriously underestimate the ingenuity of the occupants to bypass the restrictions to set up a plethora of businesses that may well be a serious nuisance, detrimental to traditional residential use.

Code Enforcement cannot or will not now enforce the simple Nuisance/Rental code and will be totally ineffective in policing home based businesses Especially for pedestrian and vehicular traffic.

Accessory Buildings, Section 3-402 page 35.

These buildings are allowed to be used for the above commercial activity and will be used in a 1,000 ways not now contemplated.

Agriculture Uses: Section 3-403 page 37.

This section does not address the problem of keeping the lot clean and free of manure and other nuisances, ie., just requiring the practice of good animal husbandry in a well maintained setting.

It does not permit the keeping of swine, which is the cleanest of all farm animals when properly kept.

It does not permit the keeping of poultry, and other birds which, again, are not a problem if properly kept.

The ownership of pigs and poultry should not be a crime but all animal owners should be forced to keep the property cleaned up.

Page 3

PEDESTRIAN OVERLAY DISTRICT: Part 5 Page 123.

Areas listed Section -102 D 2, Page 125 lists Mill, Apache, and University AND includes "All other areas within the district". This area extends from Alameda on the south to the River, and City wide in the East to West. It may well be extended by the Council in future years.

With the 1320 feet sub areas, 102 D 1, the effect will be a continuous zone along all arterial and collector streets.

Accessory dwellings are exempted from density and lot size provisions.
Section 5- 103 B

While adjacent single family areas are not affected by the code, they will soon become totally rental areas as homeowners become disenchanted by the problems of crime, parking, noise, etc. coming from the multi family, multi story people packing high rise units next door.

And remember, Home occupations and live work will be permitted. Section 5-103, page 125 does not modify the usages of dwellings.

While step down elevations are required the high rises will block the view or the single family, single story occupant giving the "hemmed in feeling". Gardening will have to take into account the shadows emanating from the high rise next door that will be up to 60 feet tall.

The only reference to sale of used goods and antiques, etc is in the definitions for junkyards. Does this prohibit pawn shops, sale of trade ins, used and antique furniture, used clothing as well as well managed stores such as Buffalo Exchange, Those Were The Days ?

Once started, the boundaries can and will extend in all directions. Tempe will become a city of rental housing. Renters do not become a part of the community. Tempe will cease to be a cohesive society.

Bill Butler
Phone 480 966 2311

April 7, 2003

Resident of Tempe since 1960 except for some lapses.

1227 W 4th Street
Tempe, Az 85281
September 21, 2002

Fred Brittingham
Planning Director

Attached is my take on 3 of the many plans currently being considered for Tempe's future.

These 3 plans have some, even many, desirable points. However, they also have many points that will forever change the face of Tempe. This will attract a different mix of personalities into the City; some of which may not add beneficially to our society and culture.

The avowed purpose is to pack as many people into the City as possible because the City cannot grow horizontally. We must grow vertically. This then begs the question of whether or not we need to grow in such numbers. Where will the limits be as to what is enough?

Putting ever more people into a given space will create a City not unlike the people packed Streets of New York that we see on TV. Such concentrations will lead to conflicts in the contest for a little space to live in. Our open space will be forever decreased to where we will have to hunt for the sun. And the other problems of urban living such as parking, crime, services, noise (music?) neighbors, etc. ad infinitum will multiply exponentially.

The selling of the rewrite that I have heard concentrates on the administrative relief in the application process. I am sure the present system is in need of overhaul. The costs of processing an application can be prohibitive and discouraging, especially to small builders, developers, and homeowners.

The good old boy reputation of the City will suffer even more with too liberally allowing, administratively, the over runs set out in the rewrite. It might well need more specific limiting language for such allowances.

Bringing this new lifestyle out to every major intersection will choke the neighborhoods that we now know, speeding the conversion of the blocks inside the major street grid to an area consisting totally of rentals. People with a homeowner mentality will be gone. And gone with them will be the maintenance of a visually desirable community.

I urge you to retrench on these standards in the areas not affected by the light rail needs. This City may well have trouble digesting all these changes. The smiles of the developers that I saw may well portend some big time troubles in the next 100 years.

What is to be our legacy for our grandchildren? Will they be proud of what we leave to them?

Bill Butler
Phone 480 966 2311

COMMENTS AND CONCERNS

CITY OF TEMPE LAND USE AND DEVELOPMENT CODE, AUGUST 2002

Page 1-10, Sect 1-302 A

✓ Accessory Dwelling

This definition clearly allows for a rental at the back of every home. It is intended to increase the density allowable. This may lead to conflicts, crime, and parking problems.

✓ Page 1-20, Sect 1-309 G

Guest quarters and guest rooms--- this is setting up another scenario for rentals.

This rental within the residence (s) will be impossible to police. Code Enforcement cannot now enforce present codes outside the home and will not be able to do so inside. They are not enforcing the 3 person rule now due to being unable to enter the house and verify the relationships of the occupants.

✓ Page 1-20, Sect 1-309 H

Home occupation—Very little restriction as to type of business

This could be a cabinet shop, welding shop, furniture repair, as well as more sedate uses like computer use or repair. See page 2-17 Sect 2-203 for some restrictions, but it is a very short list. This is not a proper use of residential zoning. See Page 1-223, Sect 1-313 L for “Live work” in multiple family districts, subject to unspecified “City Standards”.

✓ Page 1-23 Sect 1-313 L

Live work---- is full of ambiguities like “City Standards” that leave to the imagination what the final section will read.

✓ Page 1-30, Sect 1-317 P

Planned Area Development – See Page 4-29--This is the first mention of ways to get around the code in order to build otherwise unacceptable dwellings. This is a variance to the standards that will prevail in the neighboring community.

Page 2-3, Sect 2-106

2nd line refers to the “Zoning Map, City of Tempe” as being part of this ordinance. We need to know this map now before the discussion is closed and the rewrite is adopted.

Page 2-7 Table 2-202 Permitted uses

This table and other references do not give us a hint as to what the standards will be for Home Occupations to be allowable. Who will write the standards with what criteria?

Page 2-18, Sect 2-203 S

Code Enforcement has taken a VERY narrow stance as to what is and what is not going to qualify to meet the various rules. They will not now enforce against the most blatant violators of the prohibition of commercial garage sales, even with 1,000,s of new items for sale in the factory wrapper.

The very use of the word “Primarily” will give leeway to Code Enforcement people.

Page 2-22, 23, 24, 25 Density, Set Backs, etc.

These setback and density standards are brutally killed by the Northwest Specific Code.

While the setbacks, etc in the zoning rewrite may be satisfactory they are nullified by the NWSP. Why not be honest and make note of this discrepancy in the rewrite as is so noted for the PEDESTRIAN OVERLAY DISTRICT, Page 2-74, Section 2-506.x.

Page 2-75 Sect 2-506.x Pedestrian Overlay District—

The extremes of the standards in the POD may be acceptable and even necessary in the areas near the light rail route they are NOT ACCEPTABLE in “Areas within 1500 feet of arterial/arterial and arterial/collector intersections;” and “Other areas within the district outside of those areas described above”. This is opening practically all of the NW area to extremes of density and heights at the discretion of the City.

Qualifying decks and balconies as open space is slight of hand magic to maximize allowable lot coverage’s. The sun will not penetrate a deck or balcony.

This ABOMINATION must not be permitted to stand as written. It must be written to protect our PARKS and other OPEN SPACE.

As it is now written, the wireless companies can take over our parks for profitable use by privately owned firms.

As it is now written we can say good by to hard won open space, which if some of the other standards are allowed, which will be in very short supply in Tempe. Not only are the towers allowed but so are support structures, equipment enclosures, security barriers, etc. I UNDERSTAND THAT Federal Law prohibits our refusal to locate such facilities in the City there is no law saying we must give them our PARKS. There are industrial areas near many of our parks that will accommodate such needs.

Surely the City cannot be so greedy as to sell or rent little pieces of our City for small amounts of rental income.

Page 4-12/13 Neighborhood meetings.

Mailings must be made to all residents of the area association and to several associations for projects that border several areas. Mailing to the Chair may not be effective (some are not active) and there may not be time to get out another mailing to the residents –at City expense.

The code only requires a “posting “ of the sign. Under our present code applicants of controversial projects may remove the sign minutes after the “posting”. There is not a requirement to maintain the sign for a specified amount of time.

There must be a requirement for posting and maintaining several signs on large projects which then might face several streets, each street requiring a sign to get the message out.

Bill Butler
Ph 480 966 2311
1227 W 4th Street

A LIST OF STANDARDS IN NW TEMPE SPECIFIC PLAN THAT WILL CAUSE CONCERN IN OLD RESIDENTS

Page 13, C.

“Live work” category has been deleted. This removes “living” as the primary Function of a mixed use area. The change in emphasis changes the whole idea of the mixed use class to just commercial use. However, “Live Work” is in the Zoning Rewrite Definitions. I could not find reference to it in the text.

Page 13/14 D.

Accessory dwelling units: This is a very loosely written regulation that will allow an open book to abuse. It limits such to an owner “living” on the property without defining limits on the owner actually being on the property as opposed to part time occupancy. The whole section sets up another area of rentals. We do not now enforce the codes we have so how will we enforce another whole category. This is a spec for people packing leading to more conflict, crime, and other problems like parking, etc..

Page 21, Action 3.4.

Cellular Towers: The inclusion of this turkey is an affront to all the people of the West side. How many “aesthetically” pleasing towers can Jaycee Park hold? If we allow 1 company’s tower in the park we must then allow ALL companies towers in the park--- shall we have a grove of towers? And the ancillary support buildings that have been proposed in the past have been abominations.

The past proposal was written to allow the company to tear up the park, drive vehicles, and generally act as though they owned the land.

We do not want this industrial use in the park.

Page 26 Action 6.10

This paragraph again sets up rules for rentals of accessory dwellings

Action 6.11

Does not define what the term “affordable housing” means. This could well mean many things to different people. Guidelines showing dollar amounts or % of average rents could remove all confusion that results from judgment calls, what is affordable to one is out of reach for another.

Page 29 Action 6.4

Promoting private companies is not a function of government. Home Depot has become a negative in many respects. Their employee's lack of expertise is well known. The do it yourself classes are then taught by factory reps with self interest in selling their product. Local tutors would serve public better.

Appendix A.

Guest Quarters/Guest Room.

Another form of a rental, only in this case it is the rental of a (1) room. In the zoning rewrite, this room is supposed to go to a relative. Again, we are setting up a use that will not be enforceable.

Appendix C.

This page eliminates the familiar R-1-6, R-3, etc districts and substitutes the new classes of Single Family, Small scale Multi-Family,

It is the "Devil in the Details".

Density for "Single Family" is now 8 units per acre; it was 4 units for R-1-6.

Height for Medium Scale Multi Family is 45 feet; it was 35 feet for R-3, R-4,

Max site bldg coverage Single, and Small Multi is 50%, was 40% for R1, R-3, R-4

Front set back goes to 10 feet from 25 feet

Rear set back goes from 15 feet to 5 ft for sgle fam and 10 ft for Multi Fam.

Street Side set back is 10 feet for all from 25 ft on r-3, R-4, R-2.

Old spec was a 10% reduction a need is shown, New spec removes the 10% limit.

Ear set backs may be reduced to 5 ft when abutting an alley .

C-1, C-2 etc. now Small Scale Mixed Use, Medium Scale, Large Scale, & Industrial

Densities allowed run 10 , 20, and a big 40 per acre.

Height runs 30 ft, 45 feet, and a whopping 65 feet from large scale mixed use.
Minimum setbacks:

Front setback is ZERO in all classes

Side yard setback is ZERO in all classes

Rear yard setback is ZEERO in all classes

Street yard set back is ZERO in all classes

DEFINITIONS:

FAMILY, This definition ignores a fact of life. Many families today exist and have existed for many years with out benefit of legal marriage. Some accommodation must be made for long term relationships, perhaps by the number of years they are together. Perhaps 2 years is a good starting point.

GUIDELINES

Page 3; Establish an overlay district for accessory dwellings. Creates a right to another rental which may not be appropriate. See previous comment.

Do we need an overlay district for work-live zoning?? Will such zoning create a right not subject to control?

Page 9;

The 50 foot buildings bordering Rio Salado will block the view of the Lake for the rest of the City Residents. The whole City owns the Lake and should be able to see it .

Page 14 Density transfers !!!!!!!!!!!!!!!1

Transferring density count can lead to extremes of people packing in some areas of high profit, and be definitely not neighborhood friendly. Excess density creates people packing problems.

Page 19 OPEN SPACE is a strategy that effectively removes open space requirements by gimmickry, exemptions, and credits reducing sun light to narrow alleys between dwellings.

Page 35 Work live

Does not limit kinds of work. There is a difference between an office for a building contractor and a computer worker on the internet.

Page 36.

Accessory dwellings; This language aggressively promotes accessory units. The idea that the owner must reside on the property is unenforceable. Contrary to line 1, such units are not now "relatively common". Packing more rentals into an already area of high density is unacceptable. An overlay district will create a right not now available.

Page 14; Density transfers allowed!!!!!!!!!!!!!!1

Transferring density count can lead to extremes of people packing in some areas of high profit, and be definitely not neighborhood friendly.

This new Tempe Specific Area Plan will create a lifestyle and a society that will conflict with the Tempe that attracts good people who are used to having some elbow room.

Bill Butler
1227 W 4th Street
Tempe, Az 85281
Ph 480 966 2311

To: Fred Brittingham

9/31/2003

From: Darlene Justus

Comments regarding;
Zoning and Development Code, Preliminary Draft June 2003

My conclusion after reviewing the Preliminary Draft of the Zoning and Development Code, dated June 2003, is that the Zoning and Development Code will be governed by the intentions and provisions of the General Plan. If the 2030 General Plan is adopted by the voters of Tempe, the General Plan will be a legal binding document and will create new legal authority for the City of Tempe to enforce its directives.

Some Examples from the June 2003 draft of the Code, which substantiate this:

Section 1-201

Purpose and Intent

This code is adopted to implement Tempe's General Plan ---

Section 1-204

Consistency with the General Plan

All development, uses, and district changes in the City of Tempe shall be consistent with the Tempe General Plan as implemented by this Code. All provisions of this Code shall be construed in conformity with the adopted General Plan.

Section 1-308

City Council

B. Duties and Powers. For the purpose of this Code, the City Council will have the following powers;

- 1. Hear and decide requests for subdivisions, amendments to the General Plan, code text or zoning map amendments, and use permits, variances, and PAD as applicable;**
- 2. Hear and decide appeals of decisions of the Planning and Zoning Commission, Redevelopment Commission, and Design Review Board; and**
- 3. Council may prescribe in connection with a request noted in subsection 1 and 2 above, conditions as the council may deem necessary, in order to fully carry out the provisions and intent of the General Plan and this Code. Violations of any such conditions shall be a violation of this Code.**

Southwest Tempe Overlay District

Section 5-202 General Regulations

A. Land Use

(last sentence in paragraph)

In the granting of use permits the decision making body must find that the proposed use is compatible with the overall intent of the Tempe General Plan.

Section 6-305

Zoning Map and Code Text Amendment

A. Procedure.

4. Planning and Zoning Commission or Redevelopment Review Commission Review and Recommendation. The commission shall review the request and make a recommendation to City Council in a public hearing. **The recommendation of approval of any amendment by the commission shall be based on a finding of consistency and conformance with the General Plan and may include conditions of approval.**

Section 6-309

Use Permit

A. Purpose

The purpose of Section 6-309 is to insure the orderly use of land in conformance with the General Plan and applicable city standards where uses are proposed that may require special limitations or conditions to provide compatibility with other uses.

Commentary:

I am very concerned with the marriage of the Tempe Zoning and Development Code and the 2030 General Plan.

While it is desirable to consistently cross reference related documents. And while the Zoning and Development Code does appear to consistently and frequently cross reference the General Plan, we must be very careful about the content of not only the Zoning and Development Code but even more importantly the 2030 General Plan. The Zoning and Development Code states over and over again that the Code is adopted to implement Tempe's General Plan and that the Code must conform and be consistent to fully carry out the provisions and intent of the General Plan.

The current 2020 General Plan has been viewed more as a guiding tool, regarded many times as outdated, and it is certainly without teeth to force implementation. The 2020 General Plan was not voted on by Tempe citizens but approved by the Tempe City Council.

Tempe is land-locked. Development opportunities are viewed by some to be limited. Re-development is the new buzzword. The Code rewrite implements the new Redevelopment Review Commission. The Zoning and Development Code and the 2030 General Plan are being drafted to promote density and infill.

The newly formulated 2030 General Plan will come to a vote of the citizens in 2004, as now required by law. Once a General Plan has been approved by the voters of Tempe, this will give the Tempe City Council, Planners, Developers, etc. the green light to aggressively pursue the Land Use designations and intentions specified in the 2030 General Plan.

We must all pay serious attention to the new Land Use classifications and area designations. Be especially concerned when our neighborhood is designated and color coded with a denser classification (more units per acre). Be concerned when different zoning classifications are lumped into one allowing densities ranging from 10, 20 or 30 units per acre to unlimited density per acre. Correct, unlimited density to be determined on a case by case basis.

If a developer and or the City want to up the density (increase the tax base and the value of the development), and it does not conflict with the General Plan, as loosely specified with color coding, it will be much easier to implement. Remember, they must follow the intent and provisions of the General Plan. When different densities are possible within a given grouping (color coded area) we are told that the underlying zoning prevails. We are told, "Oh, that would take a zoning change, not to worry." I'm sorry, we should take notice, before our neighborhoods and lifestyle are impacted.

ACCESSORY DWELLINGS

Section 3-402

Accessory Dwelling - Refer to Definitions -

Section 7-102

“A” Definitions

Accessory Dwelling means a small secondary LEASABLE housing unit on a lot with a single-family dwelling.

Comments: Currently, in the Code rewrite, Accessory Dwellings are only to be allowed in Multi-family districts with single-family residences.

Since the Definitions define that these dwellings are LEASABLE, I must strongly suggest that they indeed be counted towards DENSITY. How can you encourage additional rentals and not address parking issues, and count these dwellings when considering all planning issues regarding density? They should count towards density!

Additional Comments:

Fred, in your memo dated July 8, 2003, subject: Executive Summary for Code Rewrite, on the third page, third paragraph, last line, you stated:

(Regarding Accessory Dwelling Unit (ADU)) Quote “ The idea is to try this concept in these areas and then we can expand it to other zoning districts if it works.”

We have gone round and round about this issue in CAC Citizen Advisory Committee meetings. I thought we were in agreement that Accessory Dwelling Units do not belong in regions zoned Single Family Residence. We do not need additional rentals in our neighborhoods. I have copies of my extensive argument regarding this “Pandora’s Box concept”. We do not need the additional crime, traffic, safety concerns, party houses, traffic down our alleys, decline in our quality of life and so forth. Can I make it any clearer? We do not want this in our single family neighborhoods!

HOME OCCUPATIONS

Section 3-412

Home Occupations

Recommendation: List Permitted Uses not Prohibited Uses.

Listing prohibited uses can not be as inclusive as it should be.
It would be easier to review, approve and add another acceptable permitted use rather than try to stop an ongoing, overlooked, unexpected and very unacceptable use.

I'm rambling, but I think you get the idea.

SIGNS

Section 4-903

Permitted Signs

S. Significant Event Sign – limited to 1 event per year.

Recommendation: Do we really want to limit Significant (tax generating) Events?

2nd & 3rd Significant Event, with Use Permit approval.

NEIGHBORHOOD MEETING

Table 6-101A

Neighborhood Meeting

Table 6-101A indicates that Neighborhood Meetings are:

Required for:

Use Permit
Variance
Zoning Map Amendment
PAD
Modification of PAD or approved plan
General Plan Amendment

Not Required for:

Development Plan
 Major – over 5000sq ft
 Minor – under 5000 sq ft
Line Adjustment
Lot Split

Refer to Section 6-402

Neighborhood Meeting

B. Applicability

3. Development Plans, when a public hearing is required;

Refer to Section 6-307

Development Plan Review

C. Procedure

Major development plan reviews are processed as public meetings through the Design Review Board (DRB) or Redevelopment Review Commission (RRC) when located in the RRC boundary area.

Comments: Public hearing triggers Neighborhood Meeting. Correct?
Therefore, in Table 6-101A, Neighborhood Meeting should be indicated for Major Development Plans, – over 5000ft.

Additional Neighborhood Meeting Comments:

First, I am concerned that the designation between Minor and Major Development Plan has been changed from 1000 sq ft in the current Code, to 5000 sq ft in the Code rewrite.

Fred, in your memo dated July 8, 2003, subject: Executive Summary for Code Rewrite, on the second page, third paragraph, you stated:

“Expand the Design Review staff’s authority to approve expansions and modifications to existing buildings. Currently they can approve up to 1,000 square feet expansions. We are proposing that they can approve up to 5,000 square feet expansions. The Design Review Board supports this concept.”

Question- 1. ONLY EXPANSIONS AND MODIFICATIONS?

What about new development? Please clarify this.

Refer to Section 6-307

Development Plan Review

B. Applicability

1. Major Development Plan Review, Applies to all new development and expansions over five thousand (5,000) square feet gross floor area, except single family homes not included in a PAD and two (2) and three (3) family dwellings.

Question – 2. Please also clarify what this means regarding single-family homes. I am confused with the wording. Does that means that any single-family residence would be classified as a Minor Development Plan with no meeting?

Question - 3. Aren’t there 2,000 to 5,00 sq ft Development Plans that warrant a Neighborhood Meeting?

Next, I am also very concerned with lot assemblage re-plats. These should definitely require public hearings and Neighborhood Meetings. We need to have a voice in re-development in our neighborhoods. Please preserve our property rights and our rights as citizens to help determine our quality of life. Please do not forget that with input from the neighborhood, great things can and do happen.

I do not want to leave this section on Neighborhood Meetings, without recognizing this great tool that you have added to the Tempe Zoning and Development Code. As a citizen of Tempe, a neighbor, and neighborhood representative I want to thank you very much for your leadership in making Neighborhood Meetings an integral part of the planning and review process. This

will go a long way to open communications, avoid problems and to come to consensus on important development issues. An informed community becomes an involved community and this will go a long way to bolster community pride and to assure great development projects. With input from the neighborhoods the City will also have the necessary input to make informed decisions. Thank you.

30 September 03

City of Tempe
Zoning & Development Code
Fred Brittingham, AICP
Tempe Planning & Zoning Commission
Tempe City Council

RE: Zoning & Development Code, Preliminary Draft, June 2003

I would like to offer my comments and concerns from my review of the above document and attendance at the Initial Open House Meeting of 8 September 03.

First, though I commend those who had the foresight to bring in an 'outside' consultant, especially one familiar with what I feel have been the successes of city growth as I have witnessed in the Portland, Oregon area.

In reading the Executive Summary for Code Rewrite, dated 8 July 03, I highlighted a number of items of interest and concern. I will keep my comments short and to the point.

1. I feel the underlining theme of the above document, attempts to put significantly more importance on the role of 'Neighborhoods' and their associated 'groups & associations', to the point where City Staff appears to have a secondary role in the development 'process'.

As a licensed professional, a registered architect and general contractor, additionally having first hand experience in development in Tempe, I believe that instead of relinquishing authority, as the Rewrite implies, the City Staff, (paid 'professionals' in their fields of expertise), should maintain responsibility for promoting quality development projects in Tempe.

New requirements that mandate development applicants, get 'pre-approval' from Neighborhood groups and associations, before making application to the City Staff, seem to put too much 'pre-judgement' in the hands of people who may not even be valid property owners. It certainly opens the door for a limited number of people to put forth their own agendas, hiding behind the cloak of 'Neighborhood interests'.



As is noted regarding Specific Area Plans (SAP), 33% of private property owners, a 1/3rd MINORITY, should never be allowed to guide, let alone determine the destiny of an area. Coupled with the additional burden of implementation by the use of an Overlay District, clearly the loud voices of a few, could broadcast the opposite positions of the majority. I would think your 'legal consultant(s)', would have cautioned the (CAC), regarding this aspect, and the legal 'liabilities' of such a 'suggestion'.

In short, I believe it is in the best interests of the City of Tempe, as a whole, that qualified professionals in the private and public sectors, have the most influence in guiding the future growth within the bound borders of Tempe. Citizen input is important, but too often becomes bloated with emotions and personal agendas.

If you would like any further comments, please contact me.

Sincerely,

Rick D. Hondorp

Brittingham, Fred

From: Philip R. Amorosi [philamo@globalcrossing.net]
Sent: Thursday, September 11, 2003 12:06 PM
To: Brittingham, Fred
Subject: New Zoning Code Questions/Comments

Hi Fred,

I had to cut out of the meeting early. I had to meet someone at 8:30. It seems like it was going to go on for a while. I could not believe all the people that were there. I just wanted to come in and get my questions answered. I could tell by the rude Rich Banks crew that it would drag on and I was getting irritated with them. You and Roger handled them professionally (more than I would do) anyway...Neil Calfee answered most of my questions but here are a few:

1. I noticed that there is a Redevelopment Review Commission but Apache Blvd. which is a redevelopment area is not included. Neil says there are pros and cons to being included in this but APAC was not even consulted on inclusion. We need more information, maybe a talk at our next meeting and if we want to be included is that possible? What are your thoughts.

2. Overlay Districts. I noticed APAC is not currently listed on that either. I know we need to be listed. Will the document be amended to include us or is this something that we will be forgotten on also. What are your thoughts.

3. I have a real problem with the Building setback height on page 4-16. fig. 4-404. I am talking now as chariman of our Hudson Manor Neighborhood Association but I am sure other neighborhoods along Apache will deal with this too. Here is why:

The houses that back up to Apache have a typical 6' fence or less. The alley is say 12'. The setback for commercial is only 10'. So there will be only 25' max. separating the building from the property. If you allow a building to go up to the setback and go up 30' before it steps back you will clearly be able to see into the back yard and bedrooms of those houses.

My possible suggestions on fixing this problem:

1. Any windows above 10' have to be block or frosted so there is not a clear view into houses.

2. Big trees need to be planted along back property line. Not the current suggested size since those would take at least 7 years to grow big enough to block the view.

If you are serious about protecting neighborhoods. We need to look at this. The current solution is not good. You show a big tree in your drawing but that is not the case on a lot of properties.

Comments on comments made at the meeting:

1. I like the idea of the hearing officer meetings to be after hours so more citizens can attend.

2. I like the idea of replats (lot ties) being a public meeting too.

Thanks,
Phil Amorosi
1432 E. Cedar St.
Tempe, AZ 85281
480-968-5530



August 18, 2003

Mr. Steve Nielsen
Mr. Fred Brittingham
City of Tempe
31 E. 5th Street
Tempe, AZ 85281

Gentlemen:

Thank you for including SunCor in the review process of the draft Zoning and Development Code. We are pleased to be a part of the growth and future of Tempe.

Attached are fifteen selected pages of the draft code with my handwritten comments. Inasmuch as my handwriting is at times difficult to read, please call me so that I can assist you.

Please let me know what the process will be for incorporating these comments into the next draft.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Randall Levin", written in a cursive style.

M. Randall Levin, AIA
Senior Project Manager

Enclosures

c: Peggy Kirch

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts

Table 3-202A identifies land uses according to permit status. See key below the table:

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)

	R/O	CSS	CC	PCC1	PCC 2	RCC
Accessory Use	P	P	P	P	P	P
Bakery	N	P	P	P	P	P
Brewery	N	U	U	U	U	P
Cemeteries, Crematoriums and Mausoleums	N	U	U	U	U	N
Childcare Center	P	P	P	P	P	P
Clinic (medical, dental, veterinary (small animals))	P	P	P	P	P	P
Clubs						
Bar (indoor or outdoor), tavern, or nightclub (a)	N	U	U	U	U	P
Lodge or similar organization (a)	N	P	P	P	P	P
Teen night club (a)	N	U	U	U	U	U
Convenience Store (a)	N	P	P	P	P	P
With gas/fuel sales (a)	N	U	N	U	U	P
Entertainment	N	U	U	U	U	P
Amusement businesses (a)	N	U	U	U	U	P
Outdoor (permanent use)	N	U	U	U	U	U
Theater or similar use	N	P	P	P	P	P
Financial Institutions	P	P	P	P	P	P
Fine Arts Class Instruction	U	P	P	P	P	P
Heliport	N	U	U	U	U	U
Hospitals, Sanitariums, Nursing Homes, Convalescent Homes, Orphanages, Institutions of Mentally Disabled [Section 3-413]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Hotels and Motels (a)	N	U	U	U	U	P
Live-Work [Section 3-414]	P	N	P	U	U	N
Mini-Warehouse [Section 3-415]	N	U(S)	N	U(S)	U(S)	S

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

R/O = Residence/Office
 CSS = Commercial Shopping and Services (formerly CCR, C-1, C-2 districts)
 CC = City Center
 PCC1 = Planned Commercial Center Neighborhood
 PCC2 = Planned Commercial Center Comprehensive
 RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)

	Station Use District					
	R/O	CSS	CC	PCC1	PCC 2	RCC
Offices	P	P	P	P	P	P
Outdoor Storage of equipment, goods, or materials	N	N	N	U	U	U
Parking, Commercial						
Surface	N	U	U	P	P	P
Structure	N	U	P	U	U	P
Photography Studio	P	P	P	P	P	P
Public Uses						
Civic facilities (e.g., post office, library, city office, customer serving)	P	P	P	P	P	P
Municipal Facilities (maintenance, repair and storage)	N	U	U	U	U	U
Open space, parks, similar uses (See also, Schools)	P	P	P	P	P	P
Radio and Television Studios with Receiving and Transmitting Towers	N	U	N	U	U	P
Residential, caretaker residence	P	P	P	P	P	P
Residential, except caretaker residence	P	N	P	U	U	N
Restaurants (a)	N	P	P	P	P	P
Entertainment as accessory use (a)	N	U	U	U	U	P
Outdoor dining (a)	N	P	P	P	P	P
With drive-in or drive-through, [Section 3-408]	N	S	N	S	S	S
With liquor license (a)	N	P	P	P	P	P
Retail Sales	N	P	P	P	P	P
Drive-through or drive-in [Section 3-408]	N	U(S)	P(S)	P(S)	P(S)	P(S)
Outdoor retail display [Section 3-418]	N	N	S	N	N	N
Outdoor retailing related to special sporting events, temporary (a)	N	S	S	S	S	S
Pawn shops (a)	N	U	U	U	U	U
Schools, Charter	U	U	U	U	U	U
Schools, Private	U	U	U	U	U	U
Schools, Public	P	P	P	P	P	P

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

(a) Security plan required. See Appendix.

R/O = Residence/Office
CSS = Commercial Shopping and Services (formerly CCR, C-1, C-2 districts)
CC = City Center
PCC1 = Planned Commercial Center Neighborhood
PCC2 = Planned Commercial Center Comprehensive
RCC = Regional Commercial Center

*confirm
HFLT ASU for 5-lado*

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

	MU-1	MU-2	MU-3	MU-4
Accessory Use	P	P	P	P
Bakery	P	P	P	P
Bed and Breakfast	P	P	P	P
Brewery (a)	U	U	P	P
Childcare Center	P	P	P	P
Clinic (medical, dental, veterinary (small animals))	P	P	P	P
Clubs				
Bar, tavern, nightclub (a)	U	U	U	P
Lodges & similar organization (a)	U	P	P	P
Teen nightclub (dance hall) (a)	N	N	U	P
Entertainment				
Amusement (arcade) (a)	N	U	U	P
Outdoor/permanent use	N	N	N	N
Theater or similar use	U	U	U	P
Financial Institutions				
With drive-through	N	N	U	P
Fine Arts Class Instruction	P	P	P	P
Freight Transportation and Distribution	N	N	N	N
Hospitals, except clinics	N	N	U(S)	U(S)
Hotels and Motels (a)	N	U	P	P
Live-Work [Section 3-414]	P	P	P	P
Mini-Warehouse [Section 3-415]	N	N	N	N
Offices	P	P	P	P
Outdoor Storage of equipment, goods, or materials	N	N	N	N
Parking, Commercial				
Surface	N	N	U	U
Structure	N	N	U	U

*we like
outdoor
entertainment*

Key:

- P = Permitted
- S = Permitted with special standards or limitations
- U = Use permit required
- N = Not permitted

- MU-1 = Low – Medium Density District
- MU-2 = Medium Density District
- MU-3 = Medium – High Density District
- MU-4 = High Density District (formerly MG district)

(a) Security plan required. See Appendix.

*before HFLT
ASU will land
does have it -
at least a very
small amount.
If part of
PAD then no
permit?*

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

	MU-1	MU-2	MU-3	MU-4
Photography Studio, except adult oriented businesses	P	P	P	P
Public Uses				
Civic facilities (e.g., post office, library, city office, customer serving)	P	P	P	P
Municipal Facilities (maintenance, repair and storage)	N	N	N	N
Open space, parks, similar uses (See also, Schools)	P	P	P	P
Residential caretaker residence	P	P	P	P
Residential (all types)	P	P	P	P
Restaurants				
Entertainment as accessory use (a)	U	U	U	P
Outdoor seating	P	P	P	P
With drive-in or drive-through [Section 3-408]	N	N	U	P
With liquor license (a)	P	P	P	P
Retail Sales:				
Drive-through [Section 3-408]	N	N	U(S)	S
Outdoor retailing related to special sporting events, temporary	N	N	S	S
Pawn shops	N	N	N	N
Schools, Private & Charter: may include dormitories	U	U	U	U
Schools, Public	P	P	P	P
Services				
Personal or business (e.g. beauty, drycleaner)	P	P	P	P
Tattoo shops, body piercing facilities	N	N	U	U
With drive-through (e.g. dry cleaner) [Section 3-408]	N	S	S	S
Similar Uses: Any use similar to, and not more detrimental than the uses permitted herein, as determined by the Zoning Administrator, may be permitted [Section 6-301]	P	P	P	P
Tutoring/After School Learning Center	P	P	P	P
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)
Amateur Radio Antennas, 35 feet in height or less	P	P	P	P
Amateur Radio Antennas, over 35 feet in height	U	U	U	U

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

MU-1 = Low – Medium Density District

MU-2 = Medium Density District

MU-3 = Medium – High Density District

MU-4 = High Density District (formerly MG district)

(a) Security plan required. See Appendix.

Concerned with 15%
do internet sales count.
How is this monitored?

3-300 Uses Permitted in Office/Industrial Districts

Table 3-302A Permitted Land Uses (OBD, LID, HID)

	OBD	LID	HID
Residence – of a caretaker or operator employed on the premises; such residence may include the family of the caretaker	P	P	P
Retail Commercial Operations – directly related to the primary industrial use may be permitted, provided they do not exceed 15% of the primary industrial use.	N	P	P
Retail Uses – allowed in the commercial and mixed-use districts (except outdoor display) may be allowed with a use permit [Section 3-202]	N	U	U
Similar Use – any use similar to, and not more detrimental than the uses permitted herein, as determined by the Zoning Administrator, may be permitted upon [Section 6-301]	U	U	U
Stadium, Arenas	N	U	P
Temporary Construction Offices and Shed, Appurtenant Signs and Storage – incidental to a construction project only for the duration of such project, not to exceed 24 months	P	P	P
Warehouse	N	P	P
Wholesaling, Repairing, Storage, and Rental Activities – in conjunction with a permitted use	N	P	P
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)
Amateur Radio Antennas			
35 feet in height or less	P	P	P
Over 35 feet in height	U	U	U
Wood Products, Manufacturing	N	U	P

What will be
27 acres west
of Priest be
zoned in new
ordinance?

Whoa!
There are huge
defunct warehouses.
Let's discuss!

could be a
problem.

Key:

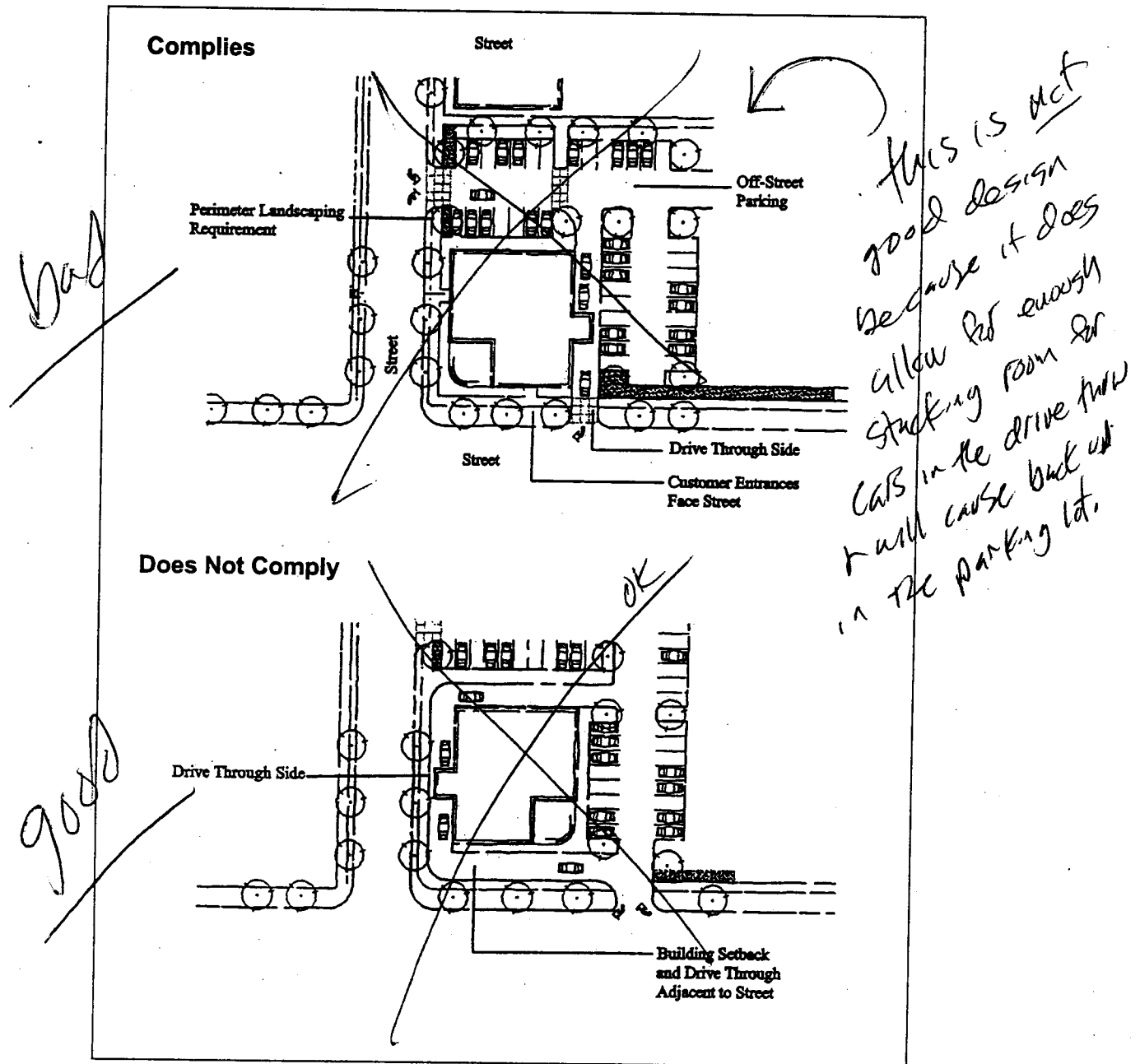
P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

OBD = Office Buffer District (formerly known as IBD)
LID = Light Industrial District (formerly known as I-1, I-2)
HID = Heavy Industrial District (formerly known as I-3)

Section 3-408 Drive-Through Facilities.

New drive-through facilities shall be oriented toward side or rear yards and not placed between the street right-of-way and the primary customer entrance. Minimum width of drive-through lane is nine (9) feet.

Figure 3-408 Drive-Through Facilities Diagram



Section 4-203 Development Standards for Commercial and Mixed-Use Districts.

Tables 4-203A and 4-203B, respectively, provide the development standards for commercial districts and mixed-use districts.

Table 4-203A – Development Standards in Commercial Districts (1)

Standard	R/O	CSS (2)	CC	PCC-1	PCC-2	RCC
Residential Density (DU/acre)	10	0	NS	20 (U)	25 (U)	0
Building Height						
Building Height Maximum	30 ft	30 ft	65 ft	35 ft	40 ft	75 ft
Building Height Step-Back Required Adjacent to R1 District, [Section 4-404, Building Height Step-Back]	No	No	No	Yes	Yes	No
Maximum Lot Coverage (% of net site area)	35%	50%	NS	50%	50%	50%
Minimum Landscape Area (% of net site area)	30%	15%	NS	15%	15%	15%
Setbacks (a) [See also, Setback Exceptions, 4-205]						
Front	15 ft	0 ft	0 ft	0 ft	0 ft	25 ft
Side						
Building Wall	10 ft	0 ft	0 ft	30 ft	30 ft	25 ft
Common Wall	10 ft	0 ft	0 ft	0 ft	0 ft	25 ft
Rear – Building Wall	10 ft	10 ft	0 ft	30 ft	30 ft	25 ft
Street Side	10 ft	0 ft	0 ft	0 ft	0 ft	25 ft

NS = No Standard. (U) = Denotes use permit requirement in those districts.

(1) An overlay district may modify the above standards. See Part 5.

(2) CSS district formerly known as CCR, C-1 and C-2 districts.

(a) See also, Section 3-401 for setbacks applying to accessory structures and buildings.

Table 4-203B – Development Standards in Mixed-Use Districts (1)

Standard	MU-1	MU-2	MU-3	MU-4 (2)
Residential Density (DU/acre)	10	20	30	NS
Building Height (feet)				
Building Height Maximum	35 ft	40 ft	50 ft	NS
Building Height Step-Back Required Adjacent to R1 District [Section 4-404, Building height step-back]	Yes	Yes	Yes	Yes
Maximum Lot Coverage (% of net site area)	50%	60%	70%	NS
Minimum Landscape Area (% of net site area)	NS	NS	NS	NS
Setbacks (feet) (a) [See Setback Exceptions, Section 4-205B]				
Front – Building Wall	0 ft	0 ft	0 ft	0 ft
Side – Building Wall	5 ft	5 ft	5 ft	5 ft
Street Side	0 ft	0 ft	0 ft	0 ft
Rear	10 ft	10 ft	10 ft	10 ft

NS = No Standard.

(1) An overlay district may modify the above standards. See Part 5.

(2) MU-4 district formerly known as MG district.

(a) See also, Section 3-401 for setbacks applying to accessory structures and buildings.

This is a problem for HFL and ASU Pro Salado as long as the linear park is R1 zoning. something needs to change!

Section 4-204

Development Standards for Office/Industrial Districts.

Tables 4-204 provides the development standards for Tempe's office/industrial districts.

Table 4-204 – Development Standards in Office/Industrial Districts (1)

Standard	OBD (2)	LID (3)	HID (4)
Building Height (feet)			
Building Height Maximum	30 ft	35 ft	40 ft
Building Height Step-Back Required Adjacent to R1 District [Section 4-404, Building Height Step-Back]	Yes	Yes	Yes
Maximum Lot Coverage (% of net site area)	40%	NS	NS
Minimum Landscape Area (% of net site area)	10%	10%	10%
Setbacks (feet) (a) [See Setback Exceptions, Section 4-205B]			
Front	30 ft	25 ft	25 ft
Side	10 ft	0 ft	0
Rear	10 ft	0 ft	0
Street Side	30 ft	25 ft	25 ft

NS= No Standard

(1) An overlay district may modify the above standards. See Part 5.

(2) OBD district formerly known as IBD district.

(3) LID district formerly known as I-1 and I-2 districts.

(4) HID district formerly known as I-3 district.

(a) See also, Section 3-401 for setbacks applying to accessory structures and buildings.

Section 4-205 Exceptions.

A. Increased Height. The following structures may extend above the maximum building heights provided in Sections 4-202 through 4-204:

1. Spires, crosses, belfries, cupolas, clock towers, or similar architectural features, attached to a building or free-standing, shall be no taller than twice the height of the tallest building on site, as measured from the curb elevation.
2. Penthouses or roof structures for the use of elevators, stairs, tanks, ventilation, or similar equipment required to ventilate the building, as well as fire or parapet walls, skylights, towers, chimneys, and necessary mechanical appurtenances, may be built above the height limits herein prescribed, but in no case shall structures above the permitted height limit be constructed for the purpose of providing additional floor space. See also, Section 4-405, Mechanical Equipment.
3. A flagpole may extend no more than thirty-five (35) feet maximum height whether ground mounted or mounted on buildings. The height shall be measured from grade at the base of the pole, or building as applicable.

3. All basements where the occupant load is greater than fifty (50) regardless of the occupancy, and/or sub-level parking structures over ten thousand (10,000) square feet. See Tempe City Code Chapter 9, Article II, Sections 9-21 through 9-32.

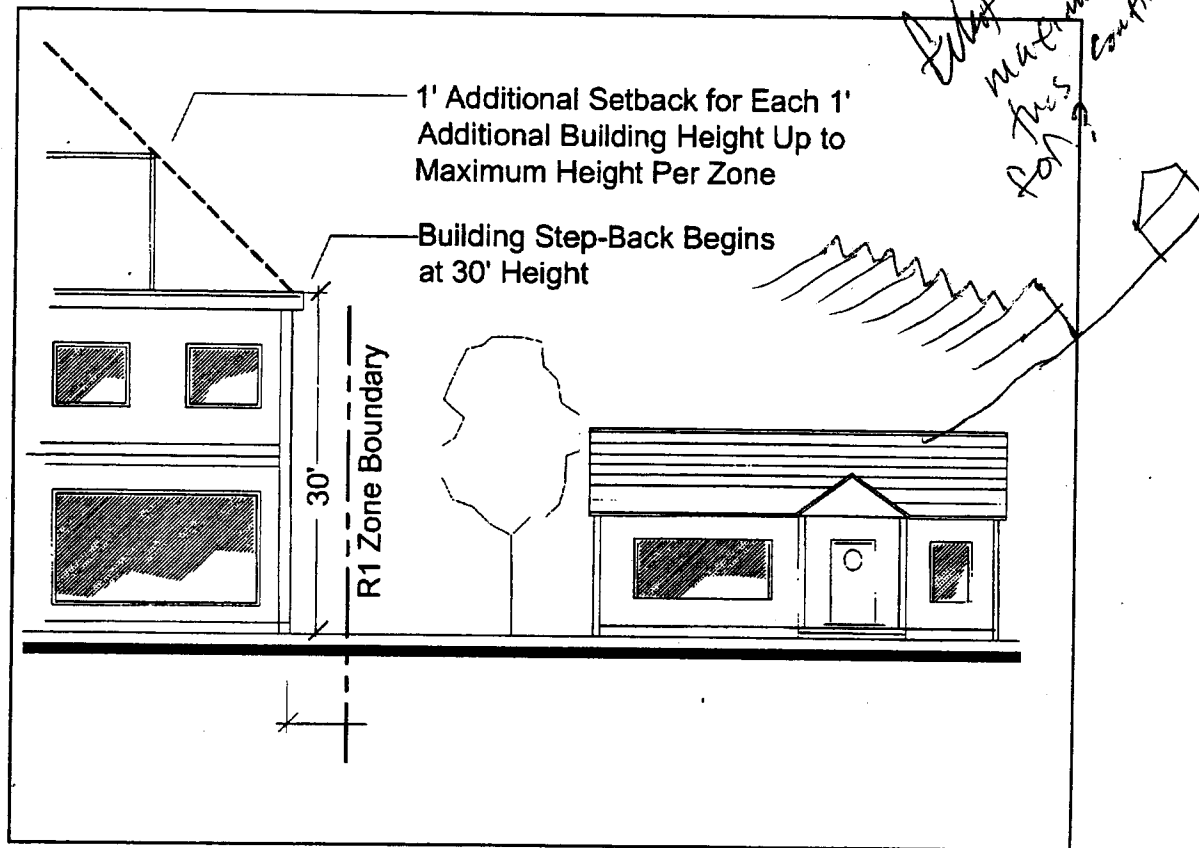
Section 4-403 Building Identification.

Buildings are required to have a site address, as assigned by the city. Building identification signs and site addresses shall conform to the standards in Section 4-902 General Sign Standards.

Section 4-404 Building Height Step-Back.

When a district other than single-family is adjacent to a single-family residential district, building facades are required to step-back, one (1) additional foot setback for each one (1) foot additional building height over thirty (30) feet. Step-back requirements begin at a height of thirty (30) feet. The building facades shall step-back as generally illustrated in Figure 4-404, below:

Figure 4-404. Building Height Step-Back



CHAPTER 6 – PARKING

- Section 4-601 Purpose and Applicability.**
- Section 4-602 General Parking Standards.**
- Section 4-603 Parking Ratios.**
- Section 4-604 Shared Parking.**
- Section 4-605 Parking Affidavit.**
- Section 4-606 Parking Area Dimensions.**

Section 4-601 Purpose and Applicability.

- A. Purpose.** The purpose of Chapter 6 is to provide standards for vehicle and bicycle parking facilities. This chapter recognizes that each development has unique parking needs and provides a flexible approach for determining parking space requirements.
- B. Applicability.** Conformance to the standards in Chapter 6 shall be required for all uses and developments, as applicable. Construction or modification of any parking area, except single-family residential parking areas, shall comply with plans that have been approved by the city. Single-family parking areas shall conform to subsection 4-602C.

Section 4-602 General Parking Standards.

- A. Parking Required.** No use shall provide less than the minimum or more than the maximum number of off-street parking spaces required under Section 4-603. The use of any property is conditional upon the unqualified continuance and availability of the parking as required by this Code. In phased PADs, individual phases of the PAD are exempt from the maximum parking standards, provided that the PAD does not exceed the maximum allowable parking at buildout.
- B. Parking Standards Applicable in All Zoning Districts.**
 1. Parking spaces shall conform to the vision clearance standards in Section 4-702G and the pedestrian and vehicle circulation standards in Sections 4-502 and 4-503;
 2. Parking is allowed only on paved parking surfaces. Pavement may be concrete, asphalt, or a porous material approved by the Development Services Manager. Where decomposed granite or similar porous

2. Parking requirements for projects in the R1-PAD district shall be established with the PAD approval; and
3. Required parking spaces may be located in the required front yard or required street side yard subject to a use permit.

D. Parking Standards Applicable in Zoning Districts Other Than Single-family. In addition to the requirements of Section 4-602B above, those uses allowed in all other zoning districts shall comply with the following regulations:

1. Tandem parking may be allowed, subject to an approved use permit or Planned Area Development;
2. Paved areas that are in a fire lane, driveway, drive-through lane or service bay and that are needed for circulation in front of loading ramps or bay doors shall not be used for parking or outdoor display at any time. Parking stalls that would block a building entrance are prohibited; and
3. Parking structure designs shall minimize risk and opportunity for crime through clearly marked and accessible pedestrian routes, wayfinding, lighting, and opportunities for surveillance.

Section 4-603 Parking Ratios.

The number of required off-street vehicle and bicycle parking spaces shall be calculated for each use as follows:

- A. On-Site Parking Spaces.** The minimum parking ratios in Table 4-603E, below, are applied to each use on the site. Statements like "+ office" are intended to remind the applicant to identify and include all independent uses. Parking calculations shall be provided for every separate main or primary use on the site, as identified in the site and floor plans submitted for city approval.
- B. Accessible Parking Spaces (Americans With Disabilities Act - ADA).** The minimum number of accessible parking spaces shall conform to ADA requirements. Refer to Federal ADA code.
- C. Maximum Parking Spaces.** Except for the RCC zoning district, the number of parking spaces provided by any development in surface parking lots shall not exceed one hundred twenty-five (125) percent of the minimum required spaces in Table 4-603E, except as follows:
 1. Parking within the building footprint of a structure (e.g., rooftop parking, below-grade parking, multi-level parking structure);
 2. When a change in use causes a lower parking requirement;
 3. Parking spaces managed for shared parking;

good

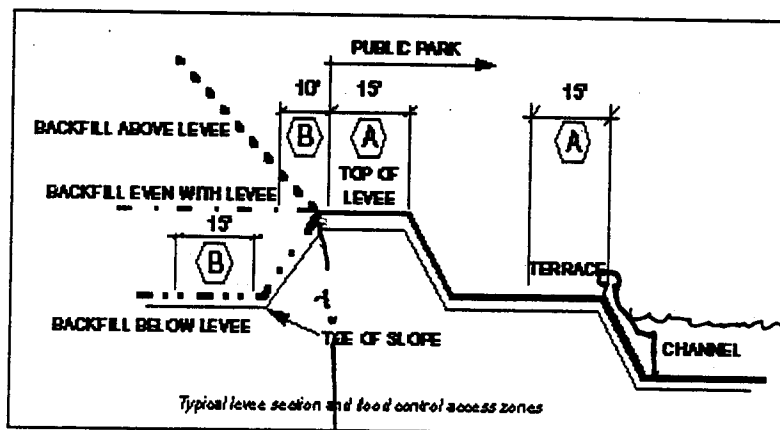
2. Promote the development of recreational facilities; and
3. Combine flood control with environmental design including the integration of lakes, ponds and streams.

Section 5-103 Additional Information and Regulations.

The following additional requirements apply:

A. Flood Control. Flood control access zones in the district are:

1. Zone "A": No objects or structures of any kind that would impede the motion of a maintenance vehicle are permitted in the fifteen (15) feet closest to the channel on either the levee or terrace as shown in Figure 5-103A;
2. Zone "B": Only landscaping and removable benches, ramadas or similar equipment that are approved by both the Flood Control District of Maricopa County and the city are permitted either in the ten (10) feet adjacent to the levee when the backfill is even with the top of the levee or the fifteen (15) feet adjacent to the base of the levee when the backfill is below the top of the levee as shown above. Replacement of any structural or landscape features within Zone "B" that are damaged as a result of emergency maintenance activities by the Flood Control District of Maricopa County shall be the sole responsibility of the owner or lessee of the site on which the features are located; and
3. When the backfill is above the top of levee, Zone "A" restrictions apply, but there are no Zone "B" restrictions on objects or structures with regard to maintenance vehicle access.



*we need
to discuss
w/ Chris*

Figure 5-103A. Flood Control

C. Procedure. Major development plan reviews are processed as public meetings through the Design Review Board (DRB) or Redevelopment Review Commission (RRC) when located in the RRC boundary area. Minor development plan reviews are processed as administrative review decisions through the Development Services Manager. Appeals to minor development plans shall be processed through the DRB or RRC as applicable.

D. Approval Criteria. Development plan approval requires conformance with the standards and criteria in subsections 1 and 2, below. The decision-making body shall use the following criteria in evaluating the development plan.

1. The following design criteria:

- a. The placement of buildings reinforces and provides variety in the street wall, maximizes natural surveillance and visibility of pedestrian areas (building entrances, pathways, parking areas, etc.), enhances the character of the surrounding area, and facilitates pedestrian access and circulation;
- b. Shade for energy conservation and comfort is an integral part of the design;
- c. Materials are of superior quality and compatible with the surroundings;
- d. Buildings and landscape elements have proper scale with the site and surroundings;
- e. Large building masses are broken into smaller components that create a human-scale as viewed from the sidewalk;
- f. Buildings have a clear base and top, as identified by ground floor elements, roof forms, and detailing;
- g. Building facades have architectural detail and contain windows at the ground level to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility;
- h. Special treatment of doors, windows, doorways and walkways (proportionality, scale, materials, rhythm, etc.) contributes to attractive public spaces;
- i. On-site utilities are placed underground;
- j. Clear and well lighted walkways connect building entrances to one another and to adjacent sidewalks;

*explain -
Apes will not allow.*

- k. Accessibility is provided in conformance with the Americans With Disabilities Act (ADA);
 - l. Plans take into account pleasant and convenient access to multi modal transportation options, and support the potential for transit patronage;
 - m. Vehicular circulation is designed to minimize conflicts with pedestrian access and circulation, and with surrounding residential uses. Traffic impacts are minimized, in conformance with city transportation policies, plans, and design criteria;
 - n. Safe and orderly circulation separates pedestrian and bicycles from vehicular traffic. Projects should be consistent with the Tempe Pedestrian and Bicycle Facility Guidelines, contained the Comprehensive Transportation Plan;
 - o. Plans appropriately integrate crime prevention principles such as territoriality, natural surveillance, access control, activity support, and maintenance;
 - p. Landscaping accents and separates parking, buildings, driveways and pedestrian walkways;
 - q. Signs have appropriate scale, color, and design based on location, site use, adjacent buildings and signs; and
 - r. Lighting is compatible with the proposed building(s) and adjoining buildings and uses, and does not create negative effects.
2. The decision-making body may impose reasonable conditions to ensure conformance with these provisions.

E. Time Limitations. Development plan approval shall be void if the development is not commenced or if a building permit has not been obtained, whichever is applicable, within twelve (12) months of such granting or within the time stipulated by the decision-making body.

city council ~~can~~ ^{for} economic hardships refuses grant by

Section 6-308 Subdivisions, Lot Splits and Adjustments.

- A. Purpose.** The purpose of this section is to provide for the orderly growth and harmonious development of the city; to insure adequate traffic circulation through coordinated street, transit, bicycle and pedestrian systems with relation to major thoroughfares, adjoining subdivisions, and public facilities; to achieve individual property lots of reasonable utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to insure consideration for adequate sites for schools, recreation areas, and other public facilities; and to promote the conveyance of land by accurate legal description and plat.

C. Procedure. There are three (3) types of modification procedures as follows:

1. **Minor Modifications to Approved Plans.** Minor modifications are processed through an administrative review by the Development Services Manager. Minor modifications include:
 - a. An increase in the floor area proposed for non-residential use by less than ten percent (10%) where previously specified, unless such increase creates a variance;
 - b. A reduction of less than 10 percent (10%) of the area reserved for landscaping, open space, or outdoor living area, unless such reduction creates a variance;
 - c. A change to specified setback, building height, lot coverage or other quantitative requirements established in a PAD by less than 10 percent (10%); or
 - d. Changes similar to those listed in subsection (a) through (c), that are not likely to have an adverse impact on adjoining properties, as determined by the Development Services Manager.
2. **Major Modifications to Approved Plans.** A major modification is a significant change that exceeds the threshold(s) provided for a minor modification under 6-313C1. Major modifications shall be processed as public hearing applications. The hearing body shall be the same as the hearing body that made the original decision of approval.
3. **Minor Modifications to Conditions of Approval.** A minor modification is one that does not change the basic intent of the condition as determined by the Development Services Manager.
4. **Major Modifications or Elimination of Conditions of Approval.** A major modification changes the basic intent of the original condition as determined by the Development Services or eliminates the condition. Major modifications shall be processed through the original decision-making body.

D. Approval Criteria.

1. **Minor Modifications.** Minor modifications are administrative decisions and may be approved by staff when they meet the basic thresholds defined in this section, and when approval does not cause a violation of any provision of this Code.
2. **Major Modifications.** The approval criteria for major modifications are the same as for the original decision.

*Chief happens @ HCC
we had 5 d. of Public Hearing
Now we have just one -
the PCC, who makes the
decision?*

Fred Brittingham

September 11, 2003

Section 3 402 Accessory Dwellings

The draft does not address density problems when the principal single family house in a multi family zoning is demolished and a multi family building is constructed after an ADU is built. In that scenario we will be allowing 1 more unit than the standards in section 4-202 will allow.

I have been assured several times that this is not the intent of the Section yet there is nothing in the draft to prevent such over building.

For instance, in R-3 zoning on .2 of an acre the standards will allow 4 units. With the prior ADU in place there will be 5 units on the .2 acre. R-2 will have 3 units, not 2 on .2 acre.

Bill Butler
966 2311



Fred Brittingham

September 11, 2003

Additional comment on Zoning rewrite;

Section 7-107 F Definition

The addition of "2 additional persons living together in a dwelling unit" does not seem to relate to a traditional family definition.

Coupled with the allowed "family" employees in live work and home occupations can lead to real nuisance business uses of our family housing.

In every presentation you and Roger speak in terms relating to professionals using their home for business.

There is nothing in the book to prevent blue collar businesses from such Locations.

Bill Butler

966 2311

A handwritten signature in black ink, appearing to be 'Bill Butler', written in a cursive style.

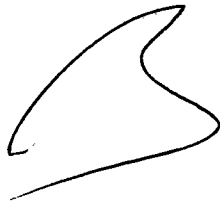
September 11, 2003

Fred Brittingham,

Per your request;

Delete reference to BOARDING HOUSES on page 4-32,
Section 4-603E.

Bill Butler 966 2311



7-30-2003

ZONING AND DEVELOPMENT CODE

PRELIMINARY DRAFT JUNE 2003

This writing represents my personal concerns with the proposed Zoning and Development Code Preliminary Draft of June 2003. Others may have other concerns and I welcome their input.

Section 1-303

A. While the hearing officer is to be appointed by the City Attorney no criteria is listed specifying the Appointee be an employee of the City Attorney. The Appointee could come from outside the Attorney's staff without accountability to the public or to the City. No mention is made as to term of office or removal from the office.

D. Appeals of the Hearing Officer's rulings shall be heard "de Novo" by the Board of Adjustment. The BA will hear any appeal or an alleged error in a decision in interpretation or enforcement of this Code.

Page 1-10 D

Refers to Section 6-803 as a reference to Superior Court Appeals. That section makes no mention of Superior Court Appeals.

Section 3-401	Accessory Buildings	Page 3-15
Section 3 412	Home Occupation	Page 3-24/26
Section 7-107	"F" Definition of "Family"	Page 7-12

All the above sections must be considered together in order to visualize the ramifications of how one affects the other.

1. Employees; the "FAMILY MEMBERS" allowed to work in the home occupation business can be unlimited in number if related by blood, adoption, marriage or as domestic partners AND 2 additional persons living together in the dwelling unit.
2. The equivalent of 1 full time employee at a given time; ie, rotating different people is OK which negates 3. and 4. as to on site assembly or pick up/deliver at the home.
3. Restrictions as to vehicles associated with the Home Occupation, commercial vehicle deliveries (shipping pickups not mentioned), customer parking-on or off site- are totally unenforceable without budget amounts allowing 24 hour surveillance of the business.

Should we allow this activity only outside of the residence?

The Home Occupation may be carried on in the residence or in an unattached accessory building. There is no specification as to the % usages for living and % usages for work except for a judgment call as to what is "appropriate in scale and impact" to be operated within a residence. This is a very vague rule.

What is the constitutional requirements for a search in order to enforce the Code? Can we search the home and more importantly, WILL we search the home to enforce this section.

Code Enforcement presently has a precedent of not enforcing the Code as to commercial used goods merchants running Yard Sales in residential zoning areas. They often require dates, times, etc record of the violation in the complaint. Code Enforcement rulings are that any goods stored in the home qualifies as surplus home goods even if they are new in wrapper in large quantity.

Section 3-402 Accessory Dwellings

E. The accessory Dwelling does not count towards density. Once the ADU is constructed the primary SFR can be torn down and a new multi family building constructed---using the allowable density for the property not counting the ADU previously constructed.

Section 3-405 Bed and Breakfast

No mention is made of the possible parking of 5 vehicles for guests in 5 bedrooms as well as several service employees categories allowed.

Section 3-407 Child Care

Section 3-409 Group Homes, Etc.

Section 3-410 Guest Room

Section 3 411 Guest Quarters

No mention is made of parking vehicles belonging to guests, clients, patients, residents, employees, vendors, deliveries, or owners. These facilities will locate in residential areas with only street parking.

Section 3-414 Live work

All the rules for Home Occupations apply except the following;
Any housekeeping unit in MU,CC, R/O, PCC-1,PCC-2 AND ALL MULTI FAMILY Districts may run a business with equivalent of 2 full time employees plus an unlimited number of family employed. Parking is UNREGULATED in all except multi family zoning. AGAIN, rules are set up that cannot be enforced except with 24/7 surveillance.

Section 3-421 Wireless communication Facilities

A. Towers are permitted anywhere in the City.

Section 6-304 Specific Area Plan

This entire section needs to be removed from the Zoning Standards Rewrite. The controversy created by this blatant attempt at disenfranchisement of the voters and landowners under B 3 will create so much controversy that the whole rewrite could be in jeopardy. The inclusion of all property owners within 150 of the SAP boundary in the 20% that can protest (kill) the proposed SAP is an unconscionable attempt to thwart the democratic process by the trickery of words. The rule adds 31% to the acreage for the protest group and an undetermined number of possible signatures, perhaps hundreds.

The lopsided allowance of only 20% protesting is in itself contrary to our democratic process and therefore needs to be raised to a number higher than the above 33%. In all the voting rules in the USA the Majority outvotes the Minority and so it should here. What hidden bomb is the writer afraid the public will want to change someday?

Section 6-402 Neighborhood Meetings

E. Notification Requirements

1. 5th line. This line specifically exempts the City and the applicant from responsibility for maintaining the posted notice on the property. The reason given in the CAC meeting was that the kids will tear them down making it difficult to maintain the posting. I have been involved with such notices for some years. The notice for rather benign actions seem to stay in place; notices for controversial applications seem to disappear, and the "For Sale" signs stay up.

Section 6-404 Public Meetings

Same argument as 6-402

+The possibility of abuse as to maintenance of the posted notice and the possibility, no matter how remote as we see things here in 2003, of abuse by the hearing officer gives thought to the special needs of some owners who cannot afford counsel and cannot verbalize their own appeal due to age or lack of capacity. This would then bring on the need for pro bono work or the City itself furnishing counsel.

Bill Butler
Ph 480.966.2311

Kelly, Grace

From: John Slowik [johnslowik@hotmail.com]
Sent: Sunday, August 11, 2002 2:33 PM
To: grace_kelly@tempe.gov
Subject: What is the status of the Tempe Zoning Law Rewrite?

I am particularly concerned with these two zoning laws:

*Sec. 4-201 paragraph 9:

"Recreational vehicles that exceed twenty-one (21) feet in length and all boats and trailers shall not be parked in the required front yard or required street side yard except:

- a. As provided in paragraph 4 of Section 4-202 below; or
- b. For forty-eight (48) hours for the purpose of loading, unloading and cleaning;"

*Sec. 4-202 paragraph 4

"Recreational vehicles that exceed twenty-one (21) feet in length and any boats or trailers may be parked in the required front yard or required street side yard subject to a use permit..."

We have had a neighbor who has been moving his RV before the 48 hours is up, by driving it around the block! We have been informed that because these particular zoning ordinances do not stipulate how many 48 hours are given per year or how what constitutes another 48 hours cycle! So what we have is a perpetual ~36' RV parked on our block. The RV is an eyesore, brings down the property value of our neighborhood and most importantly: impedes the safe view of traffic, pedestrians and children coming in from the west or east sides of Sunburst Lane. I would suggest that the RV owner be required to get a permit for the 48 hour period and only be allowed one permit every three months. I would like to be involved in revising this ambiguous ordinance and rewording it to make it fair to all parties involved.

Thank You,

John Slowik
Tempe Resident

MSN Photos is the easiest way to share and print your photos:
<http://photos.msn.com/support/worldwide.aspx>